

FILED

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Eick DEPUTY

No. CIV-13-751-W

Punishment imposed for the misconduct included confinement in the segregated housing unit for 30 days, loss of 365 earned credits, reduction in classification to Level I

for 90 days and Level I visiting restriction for 180 days. See id. Simon unsuccessfully appealed the disciplinary decision administratively, see id. at 7-10, and in state court. E.g., Simon v. Department of Corrections, No. CV-2012-1667 (Okla. District Court November 20, 2012); Simon v. Oklahoma Department of Corrections, No. REC-2012-1101 (Okla. Crim. May 2, 2013).

The revocation of earned credits must be "supported by some evidence in the record," Superintendent, Massachusetts Correctional Institution v. Hill, 472 U.S. 445, 454 (1985), to "comport with 'the minimum requirements of procedural due process.'" Id. (quoting Wolff v. McDonnell, 418 U.S. 539, 558 (1974)). That standard has been met in this case. E.g., id. (standard is met if there was some evidence from which conclusion of administrative tribunal could be deduced).

"The 'some evidence' standard is not exacting." Whitmore v. Parker, 424 Fed. Appx. 227, 234 (10th Cir. 2012)(quotation omitted)(cited pursuant to Tenth Cir. R. 32.1). Rather, there must only be "a modicum of evidence to support," Superintendent, 474 U.S. at 455, the disciplinary decision resulting in the loss of earned credits. E.g., Mitchell v. Maynard, 80 F.3d 1433, 1445 (10th Cir.1996)(disciplinary decision will be upheld even if evidence is "meager"). "Ascertaining whether this standard is satisfied does not require examination of the entire record, independent assessment of the credibility of witness, or weighing of the evidence." Superintendent, 472 U.S. at 455.

In this case, there was "some evidence" of guilt; Simon is therefore not entitled to the request he has requested. See Simon v. Jones, 2014 WL 26462 *1 (10th Cir. 2014) (citations omitted)(defendants made logical inference from the evidence that because Simon was the only inmate in the bathroom, the items were his; due process requires no

more in the prison administrative context).

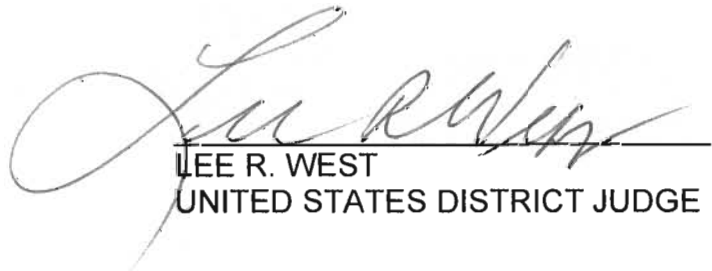
Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 14] filed on March 24, 2014;

(2) DENIES Simon's Petition [Doc. 1] file-stamped July 19, 2013; and

(3) ORDERS that judgment issue in favor of respondent Justin Jones, Director.

ENTERED this 22nd day of April, 2014.



LEE R. WEST
UNITED STATES DISTRICT JUDGE